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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

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9 ADAM FRADELLA,

10 Plaintiff,

11 v.

12 CITY OF HENDERSON,

13 Defendant.  
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2:09-cv-0680-LRH-PAL

ORDER

15 Before the court is defendant City of Henderson's motion to dismiss. Doc. #22.<sup>1</sup> Plaintiff  
16 Adam Fradella's ("Fradella") filed an opposition (Doc. #23) and a counter-motion for leave to file  
17 an amended complaint (Doc. #24).

18 **I. Facts and Procedural History**

19 This matter arises out of Fradella's arrest by officers of the Henderson Police Department  
20 on New Years Eve, December 31, 2008. Fradella filed a civil rights complaint against the City of  
21 Henderson for violation of his Fourth Amendment rights. Doc. #1, Exhibit 1. In response, the City  
22 of Henderson filed the present motion to dismiss the complaint. Doc. #22. Thereafter, Fradella filed  
23 the present counter-motion for leave to file an amended complaint to add additional defendants to  
24 the action including the individual officers who arrested him. Doc. #24.  
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<sup>1</sup> Refers to the court's docket entry number.

## II. Discussion

### A. Motion to Amend (Doc. #24)

A party, by leave of court, may file a supplemental pleading setting forth a new cause of action arising after the date of the initial pleading that bears some relationship to the transaction or occurrence in the underlying pleading. FED. R. CIV. P. 15(d); *see also, Weeks v. New York State*, 273 F.3d 58, 66 (2nd Cir. 2001). The purpose of a supplemental pleading is to provide complete relief in one action and “to avoid the cost, delay, and waste of separate actions which must be separately tried and prosecuted.” *Keith v. Volpe*, 858 F.2d 467, 473 (9th Cir. 1988) (citing *New Amsterdam Casualty Co. v. Waller*, 323 F.2d 20, 28-29 (4th Cir. 1963)).

In considering a motion for leave to file a supplemental pleading, a court considers the same factors considered in a motion to amend. *Klos v. Haskell*, 835 F. Supp. 710, 715 (W.D. N.Y. 1993), *affirmed*, 48 F.3d 81 (2nd Cir. 1995). Thus, leave of court should be given when justice so requires and when there is no undue delay, bad faith, or dilatory motive on the part of the moving party. *See Wright v. Incline Village General Imp. Dist.*, 597 F.Supp.2d 1191 (D. Nev. 2009); *DCD Programs, LTD v. Leighton*, 883 F.2d 183 (9th Cir. 1987).

Here, Fradella requests leave to file an amended complaint to add additional defendants who were involved in his arrest which is the subject of his underlying complaint. Doc. #24. A copy of the proposed amended complaint is provided in accordance with LR 15-1. Doc. #24, Exhibit 3.

The court finds that there is no undue delay, bad faith, or dilatory motive on behalf of Fradella in requesting leave to supplement. Further, the court finds that the City of Henderson would not be prejudiced by allowing the filing of an amended complaint. Accordingly, the court shall grant Fradella’s counter-motion for leave to file an amended complaint.

### B. Motion to Dismiss (Doc. #22)

The filing of an amended complaint supersedes the original complaint in its entirety. Accordingly, the City of Henderson’s motion to dismiss the complaint is now moot. Because the

1 court is granting Fradella's motion for leave, the court shall deny the City of Henderson's motion to  
2 dismiss without prejudice to allow it an opportunity to respond to the amended complaint.

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4 IT IS THEREFORE ORDERED that plaintiff's motion for leave (Doc. #24) is GRANTED.  
5 Plaintiff shall have ten (10) days from entry of this order to sign and file the proposed amended  
6 complaint attached as Exhibit 3 to plaintiff's motion for leave (Doc. #24, Exhibit 3).

7 IT IS FURTHER ORDERED that defendant's motion to dismiss (Doc. #22) is DENIED  
8 without prejudice.

9 IT IS SO ORDERED.

10 DATED this 1st day of June, 2011.



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13 LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE  
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